

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

)
)
MICHAEL DONALDSON,)
)
Plaintiff,)
)
v.) Case No.: 3:18CV00097
)
TRAE FUELS, LLC., et al.)
)
Defendants.)
)
)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

EXHIBIT 15

Transcript of Michael Donaldson

1 (1 to 4)

Conducted on October 3, 2019

	1		3
1	IN THE UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	FOR THE WESTERN DISTRICT OF VIRGINIA	2	ON BEHALF OF THE PLAINTIFF, DONALDSON:
3	CHARLOTTESVILLE DIVISION	3	JACK JARRETT, ESQUIRE
4	----- x	4	ALAN LESCHT & ASSOCIATE, PC
5	MICHAEL DONALDSON, :	5	1825 K Street NW
6	Plaintiff, :	6	Suite 750
7	v. : Civil Action No.	7	Washington, DC 20006
8	TRAE FUELS, LLC., et : 3:18CV00097	8	(202) 463-6036
9	al., :	9	
10	Defendants. :	10	ON BEHALF OF THE DEFENDANTS, TRAE FUELS, LLC,
11	----- x	11	et al.:
12		12	LARS H. LIEBELER, ESQUIRE
13	Deposition of MICHAEL DONALDSON	13	JACKSON S. NICHOLS, ESQUIRE
14	WASHINGTON, DISTRICT OF COLUMBIA	14	COHEN SEGLIAS PALLAS GREENHALL & FURMAN PC
15	Thursday, October 3, 2019	15	1828 L Street, NW
16	10:30 a.m.	16	Suite 705
17		17	Washington, DC 20036
18		18	(202) 466-4110
19		19	
20	Job No.: 263611	20	
21	Pages: 1 - 180	21	
22	Reported By: Kaylee Lachmann, RPR	22	
	2		4
1	Deposition of MICHAEL DONALDSON, held at the	1	C O N T E N T S
2	offices of:	2	EXAMINATION OF MICHAEL DONALDSON PAGE
3		3	By Mr. Liebeler 5
4		4	
5	Cohen Seglias Pallas Greenhall & Furman PC	5	
6	1828 L Street, NW	6	
7	Suite 705	7	E X H I B I T S
8	Washington, DC 20036	8	(Attached)
9	(202) 466-4110	9	DONALDSON DEPOSITION EXHIBIT PAGE
10		10	Exhibit 1 Confidentiality Agreement 38
11	Pursuant to notice, before Kaylee Lachmann,	11	Exhibit 2 Employee Counseling Notice 82
12	Registered Professional Reporter and Notary Public	12	Exhibit 3 Supplemental Interrogatories 113
13	in and for the District of Columbia.	13	Exhibit 4 6/23/14 E-mail Correspondence 127
14		14	Exhibit 5 1/31/14 E-mail Correspondence 134
15		15	Exhibit 6 1/31/14 E-mail Correspondence 143
16		16	Exhibit 7 1/31/14 E-mail Correspondence 147
17		17	Exhibit 8 2/24/14 E-mail Correspondence 150
18		18	Exhibit 9 2/24/14 E-mail Correspondence 153
19		19	Exhibit 10 4/14/14 E-mail Correspondence 154
20		20	Exhibit 11 8/7/14 E-mail Correspondence 165
21		21	Exhibit 12 6/26/14 E-mail Correspondence 169
22		22	

Transcript of Michael Donaldson

2 (5 to 8)

Conducted on October 3, 2019

	5		7
<p>1 P R O C E E D I N G S</p> <p>2 MICHAEL DONALDSON,</p> <p>3 having first been duly sworn, was examined and</p> <p>4 testified as follows:</p> <p>5 EXAMINATION BY COUNSEL FOR THE DEFENDANT</p> <p>6 BY MR. LIEBELER:</p> <p>7 Q Will you state your name for the record,</p> <p>8 please, full name?</p> <p>9 A Full name? Michael Alan Donaldson.</p> <p>10 Q What's your birth date?</p> <p>11 A September 24, 1958.</p> <p>12 Q Your home address?</p> <p>13 A 15 Hamstead Road, Fredericksburg, Virginia</p> <p>14 22405-1838.</p> <p>15 Q And are you currently employed?</p> <p>16 A I am not. No.</p> <p>17 Q Are you doing any freelance work or any</p> <p>18 work of any sort at all to gain income?</p> <p>19 A No.</p> <p>20 Q When is the last time that you worked?</p> <p>21 A When I was at Trae Fuels. That date was</p> <p>22 September 8, 2014.</p>		<p>1 March or March 15, so it was like maybe a week or</p> <p>2 two weeks interval where I didn't get anything.</p> <p>3 But I've been on disability because, you know, the</p> <p>4 cancer that I had. Yeah.</p> <p>5 Q So what was the process of you applying</p> <p>6 for disability? Who is the disability paid</p> <p>7 through? Is that through Social Security?</p> <p>8 A It is through Social Security. Yes, sir.</p> <p>9 Q And what was the determination that was</p> <p>10 made by Social Security about the nature of your</p> <p>11 disability?</p> <p>12 A Well, the determination — I mean, you</p> <p>13 wouldn't get a check if you didn't have a</p> <p>14 determination that you were eligible for it. So</p> <p>15 most people, as you probably know, when they try</p> <p>16 to get disability, usually takes multiple times to</p> <p>17 apply, or get a lawyer before that -- you are</p> <p>18 actually -- can get it. Because the nature of my</p> <p>19 illness, I know I did it online. I had to supply</p> <p>20 a lot of information, and they approved me within</p> <p>21 two weeks because pancreatic cancer is a deadly --</p> <p>22 is very deadly cancer, as you might know. So that</p>	
	6		8
<p>1 Q And that's the last time you worked?</p> <p>2 A That is the last time I worked. Yes, sir.</p> <p>3 Q Have you had any income at all since that</p> <p>4 point?</p> <p>5 A Not from working, no.</p> <p>6 Q What income have you had?</p> <p>7 A I have an income from disability. I've</p> <p>8 had income, at first, actually, from unemployment.</p> <p>9 That's the first thing that I did. That was for</p> <p>10 six months. Three — then I was on disability.</p> <p>11 I'm on disability because back with that point in</p> <p>12 time we didn't know what was going to happen and</p> <p>13 I've been on disability since that time.</p> <p>14 Q Since -- when you refer to that time, is</p> <p>15 that since 2014 when you left Trae Fuels?</p> <p>16 A Actually, I couldn't go on disability.</p> <p>17 You have to be unemployed five months. I think</p> <p>18 that's the law, and so the first time that I got a</p> <p>19 disability check was like March of 2015, which I</p> <p>20 think is — runs a month behind, was for February,</p> <p>21 but you get paid in March. And my unemployment</p> <p>22 insurance went up through the first part of</p>	<p>1 was why I think I got it. We just didn't know how</p> <p>2 long I would have. Most people don't make it.</p> <p>3 Q What's your current health condition right</p> <p>4 now?</p> <p>5 A My -- I am cancer free. I am — since</p> <p>6 March -- excuse me. Since my surgery was in</p> <p>7 January 2015, so I am cancer free five and a half</p> <p>8 years. And the statistics were in 2014 that 50</p> <p>9 percent of people die in the first six months, 75</p> <p>10 to 25 percent in one year, and six -- five years</p> <p>11 survival rate is only 6 percent then.</p> <p>12 Q You've beaten the odds. Are you still</p> <p>13 receiving disability right now?</p> <p>14 A I am receiving disability right now.</p> <p>15 Q But you're cancer free?</p> <p>16 A I'm cancer free, but I am disabled</p> <p>17 according to them. Yes. And then they, you know,</p> <p>18 it's — there's a renewal period when they will</p> <p>19 contact me, you know, to evaluate.</p> <p>20 Q So you've been looking for work since</p> <p>21 2014, have you not?</p> <p>22 A That is correct.</p>		

Transcript of Michael Donaldson

3 (9 to 12)

Conducted on October 3, 2019

	9		11
1	Q And have you told your potential employers	1	Q And you said you took care of it on
2	that you're on disability?	2	Fridays. You mean chemotherapy?
3	A Well, if they offer a job, why wouldn't I	3	A Yeah. I had chemo scheduled on Fridays so
4	tell them that?	4	it wouldn't be intrusive to the company, you know,
5	Q I'm asking you whether you told them or	5	and also me, because if I did it during the week,
6	not. I don't know.	6	you know, the next day I might have had some side
7	A Well, the answer is no. I wouldn't tell	7	symptoms or something, you know. And I didn't
8	them that unless, you know, I was offered a job.	8	want to impact, you know, my job performance or my
9	Now —	9	tenure with them.
10	Q Have you told any potential employers that	10	Q But any side symptoms had disappeared by
11	you have any limitations on your ability to	11	Monday when you went back to work?
12	perform work?	12	A Yeah, yeah. It was very mild. It was a
13	A I have no limitations, according to my	13	very mild. That's correct.
14	doctor. I asked my oncologist, you know,	14	MR. JARRETT: Sorry. One thing just
15	basically after I had my cancer surgery, could I	15	quickly. It will be tricky, but try to let him
16	work, and she said yes. And I went back and asked	16	finish his question fully. You're doing a pretty
17	her since then, you know, again, and yeah, also	17	good job, but it makes the record clear.
18	asked my surgeon. So I have no — no problem	18	THE WITNESS: Okay. Yeah. I'm sorry.
19	working, and I've been looking for work. I have	19	I've never done this before, so --
20	records of that.	20	Q All right. Well, that answers my next
21	Q Did you have any limitations on your	21	question. Have you ever had your deposition taken
22	ability to work when you were at Trae Fuels?	22	before?
	10		12
1	A No. I worked while I was taking	1	A No.
2	chemotherapy at Trae Fuels, worked 40 hours a week	2	MR. LIEBEKER: Did you hear that?
3	in four days.	3	Q You need to have audible answer?
4	Q 40 hours in four days?	4	A No. I'm sorry.
5	A Yeah. I took --	5	Q Have you ever testified at trial?
6	Q Did you ever work -- did you ever have any	6	A I have never testified at a trial before.
7	weeks where you worked more than 40 hours?	7	Not as a prime witness, no.
8	A Oh, yeah. Probably between 40 and 45,	8	Q Just confirming what you have in your
9	based on four days, you know, because the maximum	9	complaint. Was the company okay with you taking
10	is probably — while I had cancer, okay? While I	10	some Fridays off to do chemotherapy?
11	had cancer, probably 45 would be the max.	11	A They approved it. Yes.
12	Q Okay.	12	Q I'm going to have you take a look at the
13	A Yeah.	13	complaint that's filed in the case. I'm not going
14	Q And was there any part of the chemotherapy	14	to mark it as an exhibit, but if you want to take
15	or your cancer that affected your work quality of	15	a look at it, familiarize yourself with it. Once
16	17 your accounting or comptrolling work at Trae	16	you've familiarized -- you don't have to read
17	Fuels?	17	every part of it, but you may, and I'll start
18	A No. It didn't, basically because I did it	18	asking you some questions about it. So take a
19	on Fridays. So I was very blessed not to have,	19	moment and just confirm that that's the complaint
20	should I say, a lot of side symptoms. There was a	20	that's been filed in this case.
21	little bit, but that was taken care of over the	21	A Okay.
22	weekend.	22	Q Have you seen this document before,

Transcript of Michael Donaldson

7 (25 to 28)

Conducted on October 3, 2019

25

1 peptic – I mean an ulcer or whatever, called it
 2 acid reflux. That's what they said. And the next
 3 day, that same day, later on in the day they
 4 transferred me to a regular room, and John Frink
 5 and Clayton Walker, who was the plant manager,
 6 they came to see me in the hospital.

7 Q Okay.

8 A Yeah. So they knew I had issues then and
 9 ongoing they knew that I was still getting, you
 10 know – they were backing into stuff. But in
 11 April, that's when they knew I had the mass on my
 12 pancreas. That's what I told John Frink.

13 Q Okay. Was it originally diagnosed as
 14 pancreatitis?

15 A No. It was not.

16 Q Did you ever tell anyone that it was
 17 pancreatitis?

18 A In March, no.

19 Q At any time?

20 A Did I tell anybody that it was?

21 Q Yes.

22 A I told them in May after I went – on

27

1 hospital. See, I was in the hospital and I
 2 called, and I may have left a message. I don't
 3 remember. But when I got out of the hospital on
 4 the 21st, I called Kevin Whyrick and I told him.
 5 He says, were you in any pain? And I said no, no.
 6 I never – and that's one of the things – I never
 7 had any pain in my stomach area ever to this whole
 8 deal.

9 Q So there was never any pain --

10 A There was never any pain.

11 Q -- throughout the condition?

12 A No. And even the doctor was – I mean,
 13 not that – the initial doctor, he kept on pushing
 14 on my stomach, and are you in pain? No. I was
 15 never in pain.

16 Q Calling your attention to paragraph 44 of
 17 the complaint --

18 A Yes.

19 Q -- it mentions that you were -- you state
 20 that you were discharged from the hospital, and
 21 Mr. Whyrick told you that EnviroTech and Trae
 22 Fuels had hired a temporary accountant to assist

28

1 May 19th I went to my first oncology appointment,
 2 and I had elevated temperature.

3 Q I don't --

4 A You just said any time. You said any
 5 time.

6 Q I'm just asking whether you told anybody
 7 it was pancreatitis. That's all I'm asking.

8 A Well --

9 Q Just trying to narrow the question down a
 10 little bit.

11 A Yes, on May 19th. That's the first time.

12 Q Okay. All right. And who did you tell --

13 A I told --

14 Q -- at the company?

15 A At the company I told John. I told Kevin
 16 Whyrick on the 21st when I got out of the
 17 hospital.

18 Q Okay.

19 A Yes.

20 Q All right. And what did Mr. Frink respond
 21 to you? How did he respond to you?

22 A I don't remember because I was in the

1 the plaintiff while he was sick since the
 2 plaintiff was the only accountant in the Trae
 3 Fuels office. Do you see that?

4 A Yes. I do.

5 Q Do you recall that specifically?

6 A I recall it, yes, because I was talking to
 7 him on the phone. We talked, and I wasn't going
 8 to be back in the office until the Monday after
 9 Labor Day, and he said, we hired a temporary
 10 accountant.

11 Q What did you say?

12 A I said, okay. He said, I want you to
 13 train them. I said, okay, I'll train them when I
 14 get back. That's all I said.

15 Q What was your reaction?

16 A I was okay with it. You know, I – do you
 17 want to hear more? You don't want to hear more.

18 Q I'll follow up. That's fine.

19 A Okay.

20 Q You said you were okay with it?

21 A Yeah.

22 Q Did it seem like a reasonable response by

Transcript of Michael Donaldson

8 (29 to 32)

Conducted on October 3, 2019

	29		31
1 the company to get the work done given the 2 unknowns of your condition at that point in time?		1 A They are taxable. I elected to have 2 federal income tax taken out because I want to pay 3 my fair share of taxes, you know, in my household, 4 my wife. And I think that tax rate is 10 percent 5 that I elected.	
3 A I –		6 Q Calling your attention to 40 -- paragraph	
4 MR. JARRETT: Objection. Relevance.		7 45 in the complaint, you say that you left on a	
5 Objection. Vague. You can answer.		8 preplanned trip to Utah to adopt a newborn,	
6 Q Go ahead.		9 correct?	
7 A I would say not knowing the situation, you 8 know, especially with the diagnosis I had, I don't 9 think it was out of place for them to do that. I 10 would – you know, I wouldn't want to leave them 11 in the lurch, because I supervised, like I said, 12 since – I had 32 years in before I worked with 13 them. And I've always been careful to always have 14 some type of contingency plans. So no, I don't 15 think it was that unreasonable. No.	10 A Yes.	11 Q And so when you came out of the hospital, 12 did your doctor place any restrictions on your 13 ability to travel?	
16 Q Mr. Donaldson, I'm sorry. I'm going to 17 jump back for just a second. You mentioned you 18 were receiving or still receiving disability 19 benefits. How much per month do you receive in 20 disability benefits?	14 A No. As a matter of fact, they did not. 15 We were trying to adopt, you know. It had been 16 going on for a year or more, and we got word that 17 we were chosen like while I was in the hospital. 18 So they wanted to – you know, kind of force me 19 into doing some things for treatment, but I wanted 20 to see what my options were and get a second 21 opinion and all that kind of thing. And so you 22 know, I got out of the hospital. There was no		
21 THE WITNESS: Do I have to say that, tell 22 them?			
30			32
1 MR. JARRETT: Yes.	1 restrictions. I got on a plane the next morning		
2 THE WITNESS: Okay. I just wanted to know	2 after I went to Trae Fuels to drop off my phone		
3 before --	3 because I was having issues with my phone. And		
4 A How much do I receive? Well, you know, 5 it's on an incremental basis. Every year you get 6 like a COLA, a cost of living adjustment. So	4 that's a 45-minute drive, and you know, I was weak		
7 basically now it's like \$2,000 a month based on my 8 Social Security that I paid in since I was 16	5 a little bit from being in the hospital and not		
9 years old, and –	6 much sleeping and prodding and poking. I drove 45		
10 Q So that's your best estimate of what it	7 minutes. I had to be on a flight at Dulles the		
11 is --	8 next morning at 6 a.m. going to Salt Lake City,		
12 A It is --	9 Utah. So no.		
13 Q -- right now in 2019?	10 Q And did you have any health issues		
14 A 2,000.	11 throughout that weekend as you went to Utah --		
15 Q It's roughly 2,000 --	12 A I was tired.		
16 A 2,000.	13 Q -- to pick up your child?		
17 Q -- dollars per month?	14 A I was –		
18 A Now it's probably 2,050, probably twenty	15 Q Wait until I finish my question so we		
19 – \$2,050 worth of raise. It was 2,003, and now	16 can --		
20 it's 2,050, I believe.	17 A I apologize.		
21 Q All right. And are those taxable benefits	18 Q She can't type all of us at the same time.		
22 or nontaxable?	19 A I apologize.		
	20 Q Okay. So you were tired?		
	21 A Yeah.		
	22 Q Okay.		

Transcript of Michael Donaldson

9 (33 to 36)

Conducted on October 3, 2019

	33		35
1 A Nothing major, no.		1 A I figured – I just didn't know what you	
2 Q Okay. Paragraph 46, you came back to work		2 were getting at with that.	
3 on May 27th the following -- the day following		3 Q Right.	
4 Memorial Day?		4 A Well, all the ones you said before – you	
5 A Correct.		5 know, modified work schedule, I had no issue. I	
6 Q And you began to train the temporary		6 was fully functional. The only time I asked for a	
7 accountant, correct?		7 modified schedule was when I was going to start	
8 A That's correct. Yes, sir.		8 chemo, which was – the first one was July 3rd.	
9 Q And do you remember what the name of the		9 That was a Thursday. And I changed -- we couldn't	
10 temporary accountant was?		10 do it on Friday. The Fourth of July was on a	
11 A No, I don't.		11 Friday in 2014. So following that, I asked for	
12 Q And how much of your time did you spend		12 accommodation to work 40 – at least 40 hours a	
13 training particularly in that first few days?		13 week, Monday through Thursday. And that's the	
14 MR. JARRETT: I'll object to that as		14 only accommodation I ever made -- asked for.	
15 vague. But answer.		15 Q And did the company agree to that	
16 A Well, first, it probably wasn't a whole		16 accommodation?	
17 lot, as I could do it. First, you want to start		17 A Yes, sir. They did. Yes, sir.	
18 with basic, rudimentary things, you know –		18 Q So the other items I talked about, such as	
19 Q Just a rough proportion. Couple hours a		19 a wheelchair, walker, cot, anything like that to	
20 day?		20 assist you? You didn't need that, did you?	
21 A Maybe, yeah. Maybe. I can't really say.		21 A I didn't.	
22 We were in month-end close. That's the busy time		22 MR. JARRETT: I'll object on the basis of	
	34		36
1 for accountants, so I would say that she always		1 relevance. You can answer.	
2 had something to do, but I wasn't able to devote		2 A No. I didn't need it, not at all.	
3 full eight hours. But as I could do it, I did.		3 Q My question originally was June, July. At	
4 Yes.		4 any time during your employment at Trae Fuels did	
5 Q As you were training her during that time		5 you need an accommodation of the nature that I	
6 period, did you have any restrictions on your own		6 just described for physical assistance to give you	
7 ability to work or could you fully perform your		7 an accommodation to do your job?	
8 job at that time?		8 A No, no accommodation.	
9 A I could fully perform my job.		9 Q In your role as comptroller, did you have	
10 Q Okay. Through the months of May and June,		10 any lifting or carrying responsibilities?	
11 did -- did you make any requests for		11 A Not necessarily, just light – light	
12 accommodations to Trae Fuels to make it easier to		12 things, you know, maybe carrying checks to the	
13 do your job?		13 printer. I could lift boxes. I could -- yeah. I	
14 MR. JARRETT: Objection. Calls for legal		14 used to walk out to the plant. You know, so – so	
15 conclusion. You can answer.		15 I didn't have any restrictions at all. No.	
16 A When you say accommodations, specify. I		16 Q But your job function as an accountant,	
17 mean, I think I know what you mean, but specify.		17 you're working in the office, correct?	
18 What type of things?		18 A Correct.	
19 Q Right. Well, did you need a walker or a		19 Q And -- but your office is at a fuel pellet	
20 wheelchair, a cot in your office to take naps, a		20 plant where people are doing heavy lifting and	
21 different work schedule in order to perform your		21 unloading trucks and items like that, correct?	
22 work? Those are accommodations, correct?		22 A That's correct. Yes, sir.	

Transcript of Michael Donaldson

13 (49 to 52)

Conducted on October 3, 2019

	49		51
1 Kevin had told him, it still happened. So that		1 after your cancer diagnosis?	
2 was my responsibility, yes, and I did that.		2 A For the employee files?	
3 Q I hear what you're saying. Did Beth agree		3 Q For not getting employee files in the	
4 with you all the time or did she find that you		4 right spot.	
5 were not doing your job? Did she tell you you		5 A Insurance documents, perhaps, yeah,	
6 were not doing your job in getting those forms in?		6 perhaps, perhaps, yeah.	
7 MR. JARRETT: Objection. Vague. Are		7 Q Is there any information that you have	
8 we -- time frame?		8 that the reason why she was blaming you for not	
9 MR. LIEBELER: At any time.		9 getting the employee documents in the right file	
10 Q Listen to my question, though. It's not		10 was because of your cancer?	
11 whether she's right or whether she's wrong. Did		11 MR. JARRETT: Objection. That calls for	
12 she tell you that she thought you were not doing		12 legal conclusion. But you can answer.	
13 the right job and getting those forms to her?		13 A Well, it had nothing to do with my cancer.	
14 A I'm going to answer it this way. If she		14 Q We had started our discussion here of	
15 didn't get the documents, she's assuming that I		15 paragraph 58 about receiving negative feedback,	
16 didn't get them and she's assuming that the		16 and we just walked through your interactions with	
17 process was fail-safe and that everybody was doing		17 Ms. Aleman. Did Mr. LaRocco -- is that how you	
18 what they were supposed to do. So yes, she would		18 pronounce his name?	
19 blame me, but --		19 A LaRocco.	
20 Q You're not answering.		20 Q LaRocco?	
21 A But I am answering. If she was blaming		21 A Yes.	
22 me --		22 Q Did he provide you with negative feedback	
	50		52
1 Q Did she blame you?		1 at any time during your employment at Trae Fuels?	
2 A Yeah, yeah. But she didn't know the		2 A I -- I would say --	
3 circumstances.		3 Q Yes or no, and then you can explain it if	
4 Q That's fine. I'm not asking for that. I		4 you want to. That's fine. But yes or no: Did he	
5 mean, I know that that's what you --		5 ever provide you with any negative feedback of	
6 A Yeah.		6 your performance at Trae Fuels?	
7 Q And maybe you're right, maybe you're		7 A I recall after my cancer diagnosis.	
8 wrong.		8 Q What was that?	
9 A Well --		9 A I do recall after my cancer diagnosis.	
10 Q I'm simply asking whether she blamed you		10 Yes. Yes.	
11 for the failure of the documents at times not to		11 Q What was that negative feedback?	
12 be in the files.		12 A Well, it was initially about -- he called	
13 MR. JARRETT: Objection. Asked and		13 it a cash flow analysis, I think. He referred to	
14 answered, but --		14 that there.	
15 A Yes, yes. And when I had that, I would		15 Q All right. And he thought you hadn't	
16 tell her what happened. I would -- and it's my		16 prepared it in a workmanlike manner or accurate	
17 responsibility to tell her why that wasn't there,		17 manner?	
18 so --		18 A That's what he thought, but there was some	
19 Q And there were times that she blamed you		19 ambiguity there terminology-wise. He was finance;	
20 that were before your cancer diagnosis, correct?		20 I'm an accountant. In accounting we have	
21 A I don't remember.		21 something called a cash flow statement. It's part	
22 Q And there were times that she blamed you		22 of your -- it's part of your monthly financial	

Transcript of Michael Donaldson

14 (53 to 56)

Conducted on October 3, 2019

<p>1 statements. And there is – and I thought that's 2 what he was referring to. He said cash flow. 3 That's what I'm thinking – that's what I'm 4 thinking about, the analysis. I referred to what 5 he was really looking for is a cash forecast or 6 cash projection, which is different. And so I 7 found this nomenclature with him a few times that 8 I would have to then say, okay, show me what you 9 want, right? Because the terminology, you know, 10 is not clicking, right? And so I had provided 11 this document or whatever at first, and that 12 wasn't it. And I said, well, show me what you 13 want. And then he showed me. Okay. Then I 14 understood. So he did say that, yeah. 15 Q So is it fair to summarize that by saying 16 that there was an inability to clearly communicate 17 between you with respect to what he wanted from 18 you?</p> <p>19 A For him –</p> <p>20 MR. JARRETT: Objection. Vague. You can 21 answer.</p> <p>22 A I think it was a failure to communicate on</p>	<p>53</p> <p>1 A Can you repeat that again, please? 2 Q Was his negative feedback toward the work 3 product that you had provided to him related to 4 your cancer diagnosis?</p> <p>5 MR. JARRETT: Objection. Calls for legal 6 conclusion. You can answer.</p> <p>7 A I don't know.</p> <p>8 Q He didn't say the word cancer?</p> <p>9 A No, but --</p> <p>10 Q He just criticized your work, correct?</p> <p>11 A Right. But I didn't recall any criticism 12 before that, so I don't know – I don't know – I 13 don't know. I can't answer – I can't say it was 14 cancer or not. I don't know. But all I know is 15 that I didn't have anything before that period of 16 time from Mr. LaRocco to my knowledge. And you 17 know, there's no -- I have no documentation of 18 anything to even remind me of anything, so –</p> <p>19 Q But you don't know one way or the other 20 whether he was motivated by your cancer to 21 criticize the form of the documentation you gave 22 him, right?</p>
<p>1 his part what he wanted. Yes. 2 Q But his -- he was -- it was negative 3 feedback for you because you provided something 4 that he didn't want. He wanted something else and 5 you didn't provide it to him until he gave you a 6 second try?</p> <p>7 A Well, until he clarified what he really 8 wanted, right? It wasn't -- what I -- I get 9 that's not what he wanted, but the terminology he 10 used was to me not the appropriate terminology. 11 So that's why I said, well, show me, show me. 12 What do you want? And when he showed me what he 13 wanted, I did it. So it's terminology. 14 Q Do you remember when this incident you're 15 referring to occurred? 16 A Yes. It was after my cancer diagnosis. 17 It was in June of 2014. 18 Q Okay. And was his negative feedback with 19 respect to what you had provided him related to 20 your cancer diagnosis? 21 MR. JARRETT: Objection. Calls for legal 22 conclusion. You can answer.</p>	<p>54</p> <p>1 A I –</p> <p>2 MR. JARRETT: Objection. Asked and 3 answered. Objection. Calls for legal conclusion. 4 Calls for speculation, too. But you can go ahead 5 and answer.</p> <p>6 A I can't get in his mind. I don't know.</p> <p>7 Q Let's move to Ms. Mills, Michelle Mills.</p> <p>8 A Yes.</p> <p>9 Q What is her position? What was her 10 position during the time you were employed with 11 Trae?</p> <p>12 A She was a controller with EnviroTech 13 services.</p> <p>14 Q And did she provide you with any negative 15 written or verbal feedback, reviews, or complaints 16 about your work at any time while you were 17 employed at Trae?</p> <p>18 A I think it was more questions. You know, 19 I don't think it was like written – there was no 20 written like disciplinary-type things. There's 21 always questions in accounting. There's always 22 questions like, you know, why is the electricity</p>

Transcript of Michael Donaldson

16 (61 to 64)

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	61		63
1	wasn't it?	1	A I don't know. I don't really know.
2	A I don't know. I don't know.	2	Q So you didn't stop doing it even though
3	Q But the e-mails would tell us, correct, if	3	she told you it was inefficient?
4	that --	4	A No. That's – that's your assumption.
5	A Well, yeah. That would –	5	Q I'm asking you. You know; I don't.
6	Q -- exchange occurred?	6	A You said, you didn't do it. You said, you
7	A That's possible, but I would say this: A	7	didn't do it.
8	question could arise, and you could ask, why do I	8	Q Because you're saying you didn't know.
9	do this, right, and to get an understanding. Did	9	How could you not know whether you obeyed the
10	she do that? I don't know. But there are reasons	10	supervisor's order?
11	why people do certain things, and if they're in	11	A Well, I don't know. I don't know.
12	Colorado and I'm here, they had – their staff was	12	MR. JARRETT: Objection. Assumes facts
13	five or six people maybe in the accounting	13	not in evidence. Misstates testimony. You can
14	department. You know, I just was one accountant	14	answer.
15	doing financial statements. I was doing HR,	15	A I don't remember, Mr. Liebeler. I don't
16	payroll. I was doing bid proposals. There's all	16	remember. All I know – all I know is if there's
17	17 kinds of things, right? So –	17	a reason, I would have told her the reason. And
18	Q You felt you were doing it the right way?	18	18 then there would have to be a fix to the
19	A I did it the right way. They got -- they	19	19 solution – the problem, right? And so there was
20	got the information. The numbers were there, and	20	20 a fix to the problem eventually. Yes. So – but
21	21 I put – I think they were called accruals.	21	21 it wasn't like it happened overnight.
22	That's called accruals. And that was – at that	22	Q What was the fix to the problem?
	62		64
1	time that was the easy way. And then what you	1	A Well, the fix to the problem was getting a
2	don't understand, the chain of information – it	2	purchase order system implemented. That was the
3	3 deals with the chain of information. That's	3	main fix. Yes. That was it.
4	4 mostly for accounts payable. The office manager	4	Q And that was not in place when you were
5	5 would open the mail. I wouldn't have all the	5	using the Excel spreadsheets on the side?
6	6 mail, and sometimes the mail would be in John	6	A Some of it still -- I would still have to
7	7 Frink's office, so -- but there's a reason behind	7	7 use Excel spreadsheets because some things didn't
8	8 it.	8	8 go through the purchase order system, like
9	Q It's not really responsive to my question	9	9 professional services. If we had a bill from your
10	10 anymore. If there's a reason why you're doing it,	10	10 company for a legal bill, you know, that messes –
11	11 that's a different question about whether she	11	11 wouldn't go through, you know, the purchase order
12	12 criticized you for using the Excel spreadsheet.	12	12 system. So you still would have to have an Excel
13	13 Here's my next question.	13	13 spreadsheet to capture different invoices that
14	A Yeah.	14	14 were not part of the operating expenditures. You
15	Q After she criticized you for setting up	15	15 still need to do that and make a journal entry.
16	the separate Excel spreadsheet, did you continue	16	16 Everyone makes journal entries in accounting, and
17	17 to use the Excel spreadsheet in the way that you	17	17 so that went in a journal entry. Yeah.
18	18 had before the criticism?	18	Q What is -- do you have any evidence that
19	A I don't know.	19	Ms. Mills's criticism of your use of the Excel
20	MR. JARRETT: Objection. Misstates the	20	spreadsheet is in any way related to your health
21	21 testimony -- or assumes facts not in evidence.	21	21 condition or cancer?
22	22 But you can answer the question.	22	MR. JARRETT: Objection. Calls for legal

Transcript of Michael Donaldson

17 (65 to 68)

Conducted on October 3, 2019

	65		67
1 conclusion. You can answer.		1 A I can tell you that I didn't want to go to	
2 A No. How do I —		2 it.	
3 MR. JARRETT: And -- sorry. Mis --		3 Q Why?	
4 assumes facts not in evidence. You can answer.		4 A That's the first thing, when John asked me	
5 A Yeah. I don't see anything related to my		5 to go. Because just a week before, when I got	
6 cancer as far as that. No.		6 back, they had the telephone meeting and said, I	
7 Q Okay. You identified Mr. Gohar Wise?		7 left my phone in the office and all that, and you	
8 A Ms., Ms., Ms.		8 know, it was -- it was irrelevant information. It	
9 Q Ms. Excuse me.		9 was — it was — and so John asked, I need you to	
10 A Yeah.		10 go. John was almost begging me to go. I didn't	
11 Q As an additional supervisor?		11 want to go because I felt, you know, now that I	
12 A Yes, mm-hmm.		12 had cancer, I was being picked on. And so I went	
13 Q And did Ms. Wise ever provide you with any		13 to the meeting.	
14 negative feedback of any kind during your		14 Q Let me stop you right there.	
15 employment at Trae Fuels?		15 A Yeah.	
16 A There was questions. Yeah. There were		16 Q Why did you feel you were being picked on	
17 questions. I phrase them as questions.		17 because of cancer?	
18 Q Well, questions are different than		18 A Well, because I didn't have these type of	
19 negative feedback. I'm asking you whether --		19 issues, like these meetings and them calling me on	
20 negative feedback means a report or some		20 a document. No one did that prior to May 27th.	
21 deliverable or report that you prepared that was		21 No one did it. I didn't have that issue. This is	
22 not satisfactory in the eyes of the supervisor, so		22 -- and this is like two weeks in a row, and John	
	66		68
1 it's different from questions. It's negative		1 said, I need you to go, you know. And I went for	
2 feedback on your work.		2 John. And so John was sitting —	
3 A I'm not sure. I know there were		3 Q These are your supervisors, aren't they?	
4 questions, and if I had questions I would ask.		4 You're required to go?	
5 Now, there may have been some things I may have		5 A Well, I did go. I told them — I did go.	
6 done wrong. I'm not going to say I haven't done		6 Q You're required to go?	
7 anything wrong, but if I was told I did something		7 A I did go. I didn't — I didn't — I said,	
8 wrong, I would actually try to correct it. So —		8 I didn't want to go, but I did go. And John	
9 and then when I wasn't sure, I would ask. The		9 said — I didn't refuse to go, right? I said, I	
10 object is teamwork. That's the object here, so --		10 didn't want to go because of the way I was	
11 Q Mr. Donaldson, may I ask you to turn over		11 feeling. And I went. John sat at his desk. I	
12 to the next page, page 8, and take a look at		12 can see it now. I was in John's office. If	
13 paragraph 72?		13 you're John, I'm sitting right in front of you in	
14 A Okay.		14 the middle. Chris LaRocco was on my left — on	
15 Q On June 3, 2014, plaintiff met with Frink,		15 your left here. Beth Aleman was on the right,	
16 LaRocco, and Aleman. Do you recall that meeting?		16 okay? Very visual. Beth was really controlling	
17 A I do recall it.		17 the meeting.	
18 Q Describe it for me to the best your memory		18 Q Square table, round table?	
19 in as much detail as you can.		19 MR. JARRETT: Objection. Relevance.	
20 A Can I give you a precursor to that meeting		20 A There was no table. There was no table.	
21 prior to that, a week before that?		21 Q Just trying to get the --	
22 Q No. I just want that meeting.		22 A There was no table.	

Transcript of Michael Donaldson

19 (73 to 76)

Conducted on October 3, 2019

	73		75
1	Q And you were right and she was wrong?	1	tied into EnviroTech. So they knew at all times
2	A Well, she was wrong in the sense that — I	2	what money we had, what checks were written in
3	was a one-man team. So the day-to-day work had to	3	total. So they had knowledge of it.
4	get done. That was the weeds. You know, we had	4	Q Okay.
5	to pay for —	5	A Had the opportunity to have knowledge.
6	Q Mr. Donaldson, look at paragraph 73.	6	Yes.
7	A Yes, sir.	7	Q Do you feel that her comment that -- that
8	Q Read the comment.	8	criticism of you that you needed to come out of
9	A LaRocco and Aleman did not criticize	9	the weeds was in any way related to your health
10	plaintiff's performance at the meeting.	10	condition or your cancer?
11	Q Okay. Stop right there.	11	MR. JARRETT: Objection. Calls for legal
12	A Yes.	12	conclusion. You can answer.
13	Q That's not correct, is it, because you	13	A I don't know. I mean, I know my cancer
14	just told me that Ms. Aleman criticized you	14	wasn't prohibiting me doing that, but I do know
15	because she felt that you needed to get out of the	15	11 all of a sudden I'm getting this — these things
16	16 weeds?	16	happening to me within a week's time, you know.
17	A Well, she did. Yes. She said that.	17	Q So you feel in your gut that it was
18	Q Okay. So the first part of 73 is not	18	related?
19	actually correct? She did criticize your	19	A No. I'm not saying that.
20	performance?	20	Q So you don't know it was related?
21	A I guess you could say that, but it was	21	A I'm saying all I know, it was different.
22	about the profitability. That's what drove it	22	No, I don't know, but I feel it was different.
	74		76
1	there. She wouldn't have said anything, that	1	Nothing -- you know, nothing happened until
2	meeting would have never happened if the money	2	May 27th, and I don't know. I can't really say.
3	hadn't been gone. So -- but the performance was	3	I can't say. I'm not in their minds. I don't
4	not mine, right? I wasn't responsible for the	4	know what motives were there. I have no idea. I
5	money, you know, being spent. Yes --	5	I can't speak for nobody else. I can only speak for
6	Q You just felt the criticism was unfair	6	myself.
7	because she was wrong?	7	Q Were there any other criticisms of you at
8	A Well, yeah, in that sense, that I didn't	8	the meeting that we're talking about that you
9	want to blame her, you know, and yeah. But I was	9	record as June 3rd?
10	not responsible for sending money out of the door.	10	A I just remember the getting out of the
11	I couldn't sign checks. I would do anything we	11	weeds part and I remember about John, they wanted
12	paid -- if we were behind or -- I would tell John	12	me basically to control John, tell him we can't do
13	where we were as far as our money is concerned,	13	this. And he was my manager, right? You can't do
14	what we needed in advance. I said, John, we're	14	this. Now, we did have -- he and I did have some
15	getting low on cash. If something happened to the	15	exchanges, collegial exchanges -- John, I wouldn't
16	plant, you got an emergency repair, he said, we	16	do this if I were you. This would be my advice.
17	spent it. And so I would, you know, draw up a	17	But John is the general manager. He's the
18	wire transfer form or whatever it was and -- but I	18	decision-maker, and if John does something, I
19	couldn't approve that. They would approve it.	19	can't override his decision, right? I do what I'm
20	John Frink would approve it or Kevin Whyrick would	20	told. And then if something that is problematic
21	approve it. And mind you, we use the same bank	21	21 for EnviroTech, they need to talk to John because
22	that they did in Colorado. The IFS system was	22	John reported to them.

Transcript of Michael Donaldson

20 (77 to 80)

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<p>1 Q My question was just whether there was any 2 other criticism of you and your performance at the 3 meeting?</p> <p>4 A That was it, which -- I said it's unfair.</p> <p>5 MR. LIEBELER: Okay. We've been going now 6 for about an hour and fifteen. Do you want to 7 take about a five-minute break or so?</p> <p>8 COURT REPORTER: Yes, please.</p> <p>9 MR. LIEBELER: Okay. Great.</p> <p>10 (Whereupon, a recess was taken.)</p> <p>11 BY MR. LIEBELER:</p> <p>12 Q We're back on the record.</p> <p>13 A Okay.</p> <p>14 Q Mr. Donaldson, calling your attention to 15 paragraph 75 of the complaint, plaintiff does not 16 recall any complaints about him other than the 17 trivial telephone issue Aleman raised. Is that 18 accurate other than -- you modified it with your 19 testimony about come out of the weeds. Is there 20 anything else other than the telephone issue and 21 the weeds testimony that was -- would be a 22 complaint about you?</p>	<p>77</p> <p>1 Yeah.</p> <p>2 Q Well, let me ask you a fresh question 3 then. Do you remember any other criticisms or 4 complaints about your performance in the June 3rd 5 meeting other than the weeds comment?</p> <p>6 A Well, the weeds comment and then also they 7 wanted me to actually give John information, which 8 I did, and a lot of times he wasn't available 9 because there were so many issues with the plant. 10 They were coming in the middle of the night and 11 John would be out in the plant, so I would leave 12 things for him in his chair. I've learned over 30 13 years, don't put it on someone's desk. Don't put 14 it in their inbox. Put it on their chair because 15 they have to sit down because they have to pick it 16 up. And they asked me not to do that, but John -- 17 I couldn't get ahold of John. John, you know -- 18 and John would basically say a lot of times even 19 with signing checks -- we were behind on signing 20 checks. He had to approve them, the invoices. He 21 said, if there's no there, in other words no 22 production, there's no here, there's no office.</p>
<p>1 A When I think of complaint -- when I think 2 of complaints, I was thinking as far as formal 3 meetings, like that May 27th meeting. That's 4 where this telephone issue came up. And then out 5 of the weeds is on that June 3rd, June 4th 6 meeting. So I'm referring as formal, documented 7 or meeting of complaints, that's my definition I 8 guess here of what the complaint is, something 9 serious enough to have a meeting of various 10 management with me.</p> <p>11 Q Okay. I was reading paragraph 75 as the 12 sum-up paragraph of the June 3rd meeting, so if 13 you're saying that's different, then let me know. 14 Is it not true that what you're saying in 75 is 15 plaintiff does not recall any complaints about him 16 other than the trivial telephone issue that Aleman 17 raised as a reference to the June 3rd meeting, or 18 is this broader in paragraph 75?</p> <p>19 A Well, 75 was really to the May 27th 20 meeting.</p> <p>21 Q Okay.</p> <p>22 A That's when that happened, on a call.</p>	<p>78</p> <p>1 So that was -- and he was kind of right in the 2 sense that he was prioritizing getting the plant 3 running, and so -- but yes. I don't recall 4 any other -- they wanted me to give them more 5 information, which I was already giving them, but 6 he wasn't available. They didn't want me to put 7 it in his chair. They wanted me to control the 8 spending. They -- you know, like I said before 9 the break, pretty much John knew what the cash 10 position was. I would inform him. I would give 11 him advice, you shouldn't do this or you shouldn't 12 do that. But if John says, you know, we're going 13 to buy this or we're -- we have to have this or we 14 can't operate, then I did it. And --</p> <p>15 Q Let me stop you for a second because 16 you've gotten off track. My question was were 17 there any complaints about your performance?</p> <p>18 A Well, that was a complaint.</p> <p>19 Q All right. So I'm trying to figure it 20 out. It says like -- it sounds like you're saying 21 that you were criticized because you were putting 22 documents in John's chair. So you received</p>

Transcript of Michael Donaldson

25 (97 to 100)

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<p style="text-align: right;">97</p> <p>1 payroll, HR – some HR functions. I was doing – 2 working with sales, doing bids. If something 3 comes up for a job, I got to stop everything and 4 work out a complicated bid, you know. That takes 5 a day or more to do. And I was able to do some 6 things, like provide feedback to the managers, you 7 know, as far as their performance and stuff. But 8 I asked them for help, so that if there was 9 another task they wanted me to do, I could do 10 them. And Chris told – LaRocco told me, we're 11 going to get you some help.</p> <p>12 Q You mean help in the form of assistants?</p> <p>13 A Yes.</p> <p>14 Q Accountants?</p> <p>15 A Correct, correct. Eventually he said he 16 was going to get me help. The next thing I know, 17 I was terminated.</p> <p>18 Q Was there any e-mail or formal request 19 that you made to anybody within the company to 20 say, I need official staffing in order to do the 21 job you want me to do?</p> <p>22 MR. JARRETT: Objection. Vague. You can</p>	<p style="text-align: right;">99</p> <p>1 she kept me with the five managers' files, and all 2 the hourly people went back to the office manager. 3 It was a – I didn't have those in the first – 4 when I first came there, and there was some office 5 things going on between Michelle and Beth Aleman. 6 They didn't -- EnviroTech didn't want Fran to have 7 access --</p> <p>8 Q Executives?</p> <p>9 A Not only that, the hourly people in the 10 office. They didn't want her to have them, so 11 they gave everything to me.</p> <p>12 Q Let me read the next sentence.</p> <p>13 A Yeah.</p> <p>14 Q During the audit of the files in this 15 visit, I found the files to be out of federal 16 compliance. Confidentiality agreements were 17 missing and random accounts payable items were 18 placed in the employee files. Do you remember a 19 discussion of that topic during the June 3rd or 20 June 4th meeting?</p> <p>21 A I remember -- not during the meeting. I 22 remember that Beth had got Fran Holliday, who was</p>
<p style="text-align: right;">98</p> <p>1 answer. Vague and compound. But you can answer.</p> <p>2 A I don't know, but I do know it was verbal.</p> <p>3 See, here's the disadvantage. I don't have the</p> <p>4 e-mails. They could provide you with all their</p> <p>5 e-mails and maybe some of mine, but I don't have</p> <p>6 any of my e-mails where I responded. They could</p> <p>7 be selective. I don't know. But I know I did</p> <p>8 discuss it, you know, verbally. And Chris LaRocco</p> <p>9 said, we're going to get you some help.</p> <p>10 Q Next line reads, I also removed all HR</p> <p>11 employee file responsibilities except the five</p> <p>12 exempt manager positions from Michael's</p> <p>13 responsibility. Do you see that?</p> <p>14 A Yes, sir.</p> <p>15 Q Is that an accurate statement?</p> <p>16 A That is accurate. Yes, sir.</p> <p>17 Q Okay. And why did she do that? Did she</p> <p>18 tell you?</p> <p>19 A It's a long story behind all this.</p> <p>20 Q Did she tell you at the meeting why she</p> <p>21 was taking that responsibility away from you?</p> <p>22 A She didn't exactly say. No. But she –</p>	<p style="text-align: right;">100</p> <p>1 the office manager, and myself together – that</p> <p>2 might be in the next sentence somewhere. Yeah.</p> <p>3 It's in the second sentence. She got us both</p> <p>4 together because Fran was doing it, and she said</p> <p>5 to both of us, these are out of federal</p> <p>6 compliance. Now, what she meant by that, fully I</p> <p>7 don't know. But this is – this is the part that</p> <p>8 I do remember: Any counseling notices that I put</p> <p>9 in employees' files, because I've sat in a number</p> <p>10 of meetings with John when they brought someone</p> <p>11 from the plant in for counseling or terminating</p> <p>12 them or disciplining them –</p> <p>13 Q I'm sorry. It seems like you're going off</p> <p>14 in a different direction.</p> <p>15 A Well, I'm --</p> <p>16 Q Do you agree or disagree with her</p> <p>17 conclusion that the files were out of federal</p> <p>18 compliance?</p> <p>19 A I don't know. I don't know the federal</p> <p>20 law on all that. I can't speak to that.</p> <p>21 Q Okay.</p> <p>22 A But I do know -- I do know the complaints</p>

Transcript of Michael Donaldson

26 (101 to 104)

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<p>1 that were in there, she wanted me to take all the 2 counseling notices out, and I didn't understand 3 why. How would you -- why wouldn't you want to 4 keep employee counseling notices in the file? 5 Where would you put them? Why do you want to hide 6 it? 7 Q So you disagreed with her? 8 A Well, I didn't -- I don't think it was -- 9 to me, it didn't seem like a logical -- a logical 10 thing, but I didn't argue with her about it. I -- 11 she took the files away, and that was less I had 12 to do, and that was fine. But other than that, I 13 don't know. 14 Q The files were your responsibility before 15 they were taken away from you? 16 A They were, and they were Fran's before 17 that, but no one told me anything about federal 18 compliance. I had counseling notices in each 19 person's file. I think that's where they should 20 belong. I had insurance forms in their file, 21 applications in their file, copies of Social 22 Security cards for I-9 verifications, two that you</p>	<p>101 1 of federal compliance? I don't know. She would 2 have to state how it was out. I don't know how it 3 was. 4 Q You don't know what the federal 5 requirements were to know whether she was 6 compliant or not? 7 A Yeah. I don't even know if she can 8 remember what was out of compliance, but I do know 9 she didn't want the counseling notices in there. 10 That I know. And I assume -- I just assume that 11 she thought that was a reason to be out of federal 12 compliance with. You know, to me that didn't 13 sound copacetic, but yeah. 14 Q Last sentence reads, in addition I told 15 Michael he needs to create accounts payable files 16 for all the vendors they are using, and those 17 files need to be current at all time [sic]. Do 18 you remember that discussion point during the 19 meeting? 20 A Yeah. There were accounts payable files. 21 They were there. Now, she's talking about me 22 putting files in the employee files? I mean,</p>
<p>1 needed, and if there were counseling, yeah, I put 2 them there. That's where I felt they belonged, 3 but I didn't know -- she said they shouldn't be in 4 there. 5 Q So you didn't know whether they were 6 within federal compliance or not? 7 A Yeah. I don't have any idea. No, sir. I 8 don't know that. 9 Q You testified earlier that you had 10 previous HR functions and responsibilities? 11 A I did. I did. 12 Q I assume training, correct? 13 A I did years ago, right, years ago. I 14 mean, first time I had HR responsibilities, when I 15 first started in 1981, and I just did kind of like 16 payroll stuff, but I had full range of it -- of 17 that in 1986, and you know, that was 30-some years 18 ago, and the laws changed. But I-9 came in during 19 1986, because I remember that's when that came in. 20 So I knew that -- what forms you had to have and 21 verifications and stuff like that, but she said it 22 was out of federal -- how was it? How it was out</p>	<p>102 1 prior to that, right? 2 Q I'm just reading what it says. 3 A Yeah. 4 Q It says, I told Michael he needs to create 5 accounts payable files, so that certainly implies 6 that there were not accounts payable files, 7 correct? 8 A Well, it says, during the audit of the 9 files, during this visit I found the files to be 10 out of federal compliance. Confidential 11 agreements were missing. 12 MR. JARRETT: That's not what he's reading 13 from. 14 Q The last -- 15 A Random accounts payable items were placed 16 in employees' files. So she's saying that -- 17 Q Look at the -- look at the -- 18 MR. JARRETT: Hold on. 19 Q Please stop. Just look at the last 20 sentence in this block here. 21 A Okay. 22 Q It's the last sentence. Read along with</p>

Transcript of Michael Donaldson

28 (109 to 112)

Conducted on October 3, 2019

<p>1 activities, was to help you by creating the score 2 card, correct?</p> <p>3 MR. JARRETT: Objection. Calls for 4 speculation. Assuming facts not in evidence. You 5 can answer.</p> <p>6 A Well, I don't think it was counseling – I 7 wasn't doing anything wrong because I had never 8 done it before. I was never asked to do it 9 before, so it was something new they wanted me to 10 do. Yes.</p> <p>11 Q Reading the last section that's written, 12 the topic is next step if infraction is repeated. 13 Quote, this is not discussed as this first meeting 14 was to convey the expectations that are needed for 15 the controller position and more specifically for 16 Michael to understand he needs to produce more 17 qualitative/quantitative work and be a hands-on 18 controller. Do you see that language?</p> <p>19 A What wasn't discussed? The infractions?</p> <p>20 Q Next step is infraction, I assume.</p> <p>21 A Yeah.</p> <p>22 Q We're reading the same document.</p>	<p>109</p> <p>1 external pressure, you know, from the investors, 2 and you know, they were in a position as 3 management, EnviroTech, you know – it was 4 probably shame for them.</p> <p>5 Q Do you feel that you were being unfairly 6 blamed for the financial position of the company 7 at that time?</p> <p>8 A I do. Yes, sir. I did.</p> <p>9 Q Let's turn to page 9 of the complaint. On 10 paragraph 77, please -- you can take that exhibit 11 and just set it right here in a pile.</p> <p>12 A Okay. There you are.</p> <p>13 Q Okay. It reads, plaintiff was to be 14 treated with chemotherapy two out of every three 15 Fridays, is that correct?</p> <p>16 A That is correct.</p> <p>17 Q Okay. And --</p> <p>18 A That was – that was – I had different 19 regimens, but that was when I had to go to the 20 hospital to have interavenous, but I also had the 21 little pill, but that had nothing to do with being 22 off on Fridays. But yeah. Two out of every three</p>
<p>10</p> <p>1 A Yes. So there was no process improvement.</p> <p>2 Q Do you have a recollection that they asked 3 you to produce more qualitative/quantitative work 4 and be a hands-on controller?</p> <p>5 A They were saying, get out of the weeds. I 6 remember that. But I wasn't – I was doing 7 quality work, quantitative work.</p> <p>8 Q So you disagree with the criticism?</p> <p>9 A Well, I think it's – they're reflecting 10 getting out of the weeds again. So they may have 11 said that, but I was producing the work that I 12 could produce. I was producing it. Yeah.</p> <p>13 Q How did you feel when you got done with 14 the meeting?</p> <p>15 A I felt very bad.</p> <p>16 Q Why?</p> <p>17 A Well, I felt bad for a couple – a couple 18 reasons. First, John was scared to go to the 19 meeting himself. And they pulled, you know, us in 20 there. I felt – I felt bad for the company in 21 the sense that they had to do this capital call, 22 not because it was my fault. Now they're getting</p>	<p>110</p> <p>112</p> <p>1 Fridays, that's correct.</p> <p>2 Q And paragraph 79, is this accurate, 3 plaintiff also told Frink that he would be able to 4 maintain a 40-hour week despite the chemotherapy?</p> <p>5 A That is correct.</p> <p>6 Q And did you, in fact, maintain a 40-hour 7 week during the time that you were employed with 8 Trae?</p> <p>9 A Yes.</p> <p>10 MR. JARRETT: Objection. Asked and 11 answered. But answer.</p> <p>12 A Yeah. 40 to 45.</p> <p>13 Q 40 to 45?</p> <p>14 A And they were watching me. They were 15 going to make sure I did that because they would 16 have probably wrote it up after these meetings, 17 right? I did.</p> <p>18 Q And it's true that Trae and EnviroTech 19 agreed to your four-day workweek on some weeks 20 while still performing 40 to 45 hours per week?</p> <p>21 A I assume that's correct. I told John. 22 John talked to Kevin. They approved that. I gave</p>

Transcript of Michael Donaldson

29 (113 to 116)

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	113		115
1 the schedule, you know, not only to John and the		1 Q The interrogatory asks you to identify and	
2 office manager but also sent it to EnviroTech.		2 describe in detail all negative symptoms or	
3 Yes. So they approved it.		3 conditions experienced by you as a result of your	
4 Q And they were okay with it?		4 cancer and subsequent treatment. I just want to	
5 A Yes, sir.		5 make sure that this is a full and complete and	
6 Q And paragraph 82, he experienced no		6 accurate answer that you've given here and there's	
7 negative symptoms, no pain, nausea, vomiting, et		7 nothing else that you need to add at this point to	
8 cetera. That was correct?		8 make it a full and complete, accurate answer?	
9 A That is correct. Yes, sir.		9 A Just number three, right?	
10 MR. LIEBELER: Okay. Why don't we do		10 Q Correct.	
11 this? I got the signed supplemental		11 A And this is just in regard to chemotherapy	
12 interrogatories -- that's the original right		12 basically, right?	
13 there. Can you -- why don't we mark that as an		13 Q Well, just read the question again if you	
14 exhibit, please.		14 have any questions. It says, identify and	
15 (Whereupon, Exhibit 3, Supplemental		15 describe in detail all negative symptoms or	
16 Interrogatories, was marked for identification.)		16 conditions experienced by you as a result of your	
17 MR. LIEBELER: Copiers are so good you		17 cancer and subsequent treatment. I want to make	
18 can't tell which one is the original anymore, so		18 sure that this is an accurate answer.	
19 they all look pretty good.		19 A So basically the topic is negative	
20 MR. JARRETT: I guess I have the original,		20 symptoms?	
21 actually. Do you want to change it?		21 Q Right.	
22 MR. LIEBELER: It doesn't matter.		22 A So I would say that this is fairly	
	114		116
1 MR. JARRETT: Yeah.		1 accurate, yeah, as far as, you know, what happened	
2 MR. LIEBELER: I think we're good.		2 to me.	
3 BY MR. LIEBELER:		3 Q Okay. And in reading the second sentence	
4 Q Okay. Mr. Donaldson, I know that you just		4 of your response, Mr. Donaldson responded well to	
5 spent some time thumbing through this, but I --		5 the chemotherapy, which he took on Fridays, and	
6 and your signature is on the -- can you turn to		6 the primary symptom he felt after chemotherapy was	
7 the final page of Exhibit 3?		7 a lethargic feeling on Saturday or Sunday. Is	
8 A The final page where I signed it? Is that		8 that true and accurate?	
9 what you're referring to?		9 A That is true and accurate. Yes, sir.	
10 Q Right. I just wanted to confirm that this		10 Q Okay.	
11 is in fact your certification, that the foregoing		11 A Yes, sir.	
12 interrogatory responses are true and accurate to		12 Q Okay. Sorry I'm going to go backwards to	
13 the best of my knowledge and recollection?		13 number two, which is -- starts very much on the	
14 A Yeah. I mean, I didn't read the whole		14 bottom of page 2. Just want to make sure that	
15 thing again, but I had read it, you know, at home		15 this is the full answer for this. Number two	
16 probably before it was sent, but I haven't -- last		16 reads, describe in detail all physical	
17 week or whatever.		17 restrictions imposed upon you by your physicians	
18 Q Let's just go through a couple of them and		18 from May 15, 2014, to August 20, 2014. Just take	
19 make sure that we're all on the same page. If you		19 a look at that answer and just verify that that's	
20 could turn to page 3, that's interrogatory and		20 a full and complete answer.	
21 response number three.		21 A And that is correct. Yes, sir.	
22 A Okay.		22 Q I'm going to call your attention to page	

Transcript of Michael Donaldson

45 (177 to 180)

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<p>1 that. Yes.</p> <p>2 Q Any time prior to it not getting done, did 3 you ask anyone for any assistance to help getting 4 it done [sic]?</p> <p>5 A Well, like I said, the 15th, right?</p> <p>6 They're showing me on the 15th. I'm leaving for a 7 doctor's appointment on the 15th. I didn't get 8 back until the 27th.</p> <p>9 Q My question is, did you ask -- did you 10 tell anyone you needed help getting the job done?</p> <p>11 A There was no one there to help me.</p> <p>12 Q Did you ask for help to get the job done?</p> <p>13 MR. JARRETT: Yes or no?</p> <p>14 A No, no, because there's no one to ask.</p> <p>15 I'm doing financial statements. There's no one to 16 ask. There's no one to ask. But then he says, 17 you know, I'm very good at accounting and detailed 18 -- I'm very detailed in my communications and 19 detailed as an auditor, so I don't know. But we 20 did get that PO system done so they wouldn't have 21 to enter those 300 lines anymore. So we got them 22 done in June.</p>	<p>177</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, MICHAEL DONALDSON, do hereby</p> <p>3 acknowledge that I have read and examined the</p> <p>4 foregoing testimony and the same is a true,</p> <p>5 correct, and complete transcription of the</p> <p>6 testimony given by me and any corrections appear</p> <p>7 on the attached errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (SIGNATURE) (DATE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>1 Q Okay.</p> <p>2 A We got them done.</p> <p>3 Q All right. Is there anything -- any 4 medications that you're taking that would have 5 interfered with you giving full and complete 6 answers here today for the deposition?</p> <p>7 A None.</p> <p>8 Q Thinking back over your testimony from the 9 time we started at 10:30, are you satisfied with 10 all your answers or is there anything upon 11 reflection that you need to change to any of the 12 questions I've asked you?</p> <p>13 A No, no. I'm pretty satisfied with the 14 answers I gave. Yes, sir.</p> <p>15 Q Okay. All right. Thank you for your 16 time. The deposition is over.</p> <p>17 (Off the record at 1:50 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>178</p> <p>180</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC</p> <p>2 I, Kaylee Lachmann, the officer before</p> <p>3 whom the foregoing deposition was taken, do hereby</p> <p>4 certify that the foregoing transcript is a true</p> <p>5 and correct record of the testimony given; that</p> <p>6 said testimony was taken by me stenographically</p> <p>7 and thereafter reduced to typewriting under my</p> <p>8 direction; that reading and signing was requested;</p> <p>9 and that I am neither counsel for, related to, nor</p> <p>10 employed by any of the parties to this case and</p> <p>11 have no interest, financial or otherwise, in its</p> <p>12 outcome.</p> <p>13 IN WITNESS WHEREOF, I have hereunto set my</p> <p>14 hand and affixed my notarial seal this 9th day of</p> <p>15 October, 2019.</p> <p>16</p> <p>17</p> <p>18 </p> <p>19</p> <p>20 My commission expires: March 14, 2024</p> <p>21</p> <p>22</p>